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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/478,875	01/07/00	KOHLMAN R	2127

025280
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TM02/0208

EXAMINER	
GRAVINI,S	
ART UNIT	**PAPER NUMBER**
2162	5

DATE MAILED: 02/08/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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U.S. G.P.O. 2000 ; 465-188/25268

Office Action Summary	Application No. 09/478,875	Applicant(s) Randolph S. KOHLMAN et al.
	Examiner Stephen M. Gravini	Group Art Unit 2162

☒ Responsive to communication(s) filed on *Dec 29, 2000* .

☐ This action is **FINAL.**

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire *3* month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) *1-83* is/are pending in the application.

Of the above, claim(s) *1-28 and 47-83* is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) *29-46* is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐approved ☐disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____ .

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____ .

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
   - I. Claims 1-3, drawn to a treating method combination, classified in class 34, subclass 306.
   - II. Claims 4-21, drawn to an treating method subcombination, classified in class 34, subclass 309.
   - III. Claims 22-28, drawn to a subcombination treatment apparatus, classified in class 34, subclass 61.
   - IV. Claims 29-46, drawn to a treating method subcombination, classified in class 34, subclass 311.
   - V. Claims 47-56, drawn to a treating method subcombination, classified in class 34, subclass 357.
   - VI. Claims 57-58, drawn to a treating method subcombination, classified in class 34, subclass 380.
   - VII. Claims 59-60, drawn to a subcombination treatment apparatus, classified in class 34, subclass 79.
   - VIII. Claims 61-72, drawn to a subcombination treatment apparatus, classified in class 34, subclass 95.
   - IX. Claims 73-83, drawn to a subcombination treatment apparatus, classified in class 34, subclass 107.

2. The inventions are distinct, each from the other because of the following reasons: Inventions of groups I, II, IV, V, & VI and groups III, VII, VIII, & IX are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the process as claimed can be practiced by another materially different apparatus or by hand because the independently claims process/method contains the steps "placing articles to be cleaned in a container through an opening having a closure means," "securing the closure," and "subjecting articles to a tumbling action in the presence of a cleaning agent." These steps are not limitations in the independently claimed apparatus. Since these limitations are independent and distinct from both groups of the above stated inventions, it would be a serious burden on the examiner to distinguish each patentable feature from the current U.S. and foreign classification system.

3. Inventions of group III and groups VII, VIII, and IX are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention of group III has separate utility such as a two panel bag joined along at least one seam forming rigidifying wall discontinuity. These separate uses (claimed as a two panel single seam bag and rigidifying wall discontinuity) distinguish the invention of group III from groups VII, VIII, and IX since the two panel single seam bag and rigidifying wall discontinuity are not limitations of those independently claimed inventions. Therefore the invention of group III is a separately usable subcombination. See MPEP § 806.05(d).

4. Inventions of group VI and groups I, II, IV, and V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention of group VI has separate utility such as freshening, removing vapors, gas input/output venting, and kinetic pumping. These separate uses (claimed as freshening, removing vapors, gas input/output venting, and kinetic pumping) distinguish the invention of group VI from groups I, II, IV, and V since the freshening, removing vapors, gas input/output venting, and kinetic pumping are not limitations of the independently claimed invention of groups I, II, IV, and V. Therefore the invention of group II is a separately usable subcombination. See MPEP § 806.05(d).

5. Inventions of group I and groups II, IV, and group V are each related as combination and subcombination. Group I is the combination and groups II, IV, and V are subcombinations of group I. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as independently claimed does not require the particulars of the subcombinations as independently claimed because structural rigidity tumbling promoting (independently claimed in subcombination group II), textile substrate polymer facing (independently claimed in subcombination group IV), the Kawabata friction and stiffness values (independently claimed in subcombination group V) are particulars of the subcombinations that are not required in the combination invention of group I. Because the combination, as independently claimed does not require the particulars of the subcombinations of groups II, IV, and V, each of these groups shows a distinct relationship with each succeeding combination and subcombination. In other words group V is a subcombination of combination group IV, group IV is a subcombination of group II, and group II is a subcombination of group I for the particulars stated. The subcombinations have separate utility such as Kawabata friction and stiffness values (group V), textile substrate polymer facing (group IV), and the structural rigidity tumbling promoting (group II). Each of these independently claimed separate utility features separate the subcombinations such that each subcombination has utility by itself or in other combinations.

6. Inventions of group VII and groups VIII and group IX are each related as combination and subcombination. Group VII is the combination and groups VII and IX are subcombinations of group VII. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as independently claimed does not require the particulars of the subcombinations as independently claimed because the greater Kawabata friction values without the independently claimed friction values (independently claimed in subcombination group VIII), the Kawabata maximum friction and stiffness values (independently claimed in subcombination group IX) are particulars of the subcombinations that are not required in the combination invention of group VII. Because the combination, as independently claimed does not require the particulars of the subcombinations of groups VII and IX, each of these groups shows a distinct relationship with each succeeding combination and subcombination. In other words group IX is a subcombination of combination group VII, and group VIII is a subcombination of group VII for the particulars stated. The subcombinations have separate utility such as the greater Kawabata friction values without the independently claimed friction values (group VIII), and the Kawabata maximum friction and stiffness values (group IX). Each of these independently claimed separate utility features separate the subcombinations such that each subcombination has utility by itself or in other combinations.

7. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

8. Applicant's election with traverse of group IV claims 29-46 in Paper No. 4 is acknowledged. The traversal is on the grounds that "each group defined by the examiner is classified in Class 34, and that it would not be a serious burden on the examiner to distinguish each patentable feature in the US Classification system." This is not found persuasive because applicants are claiming nine different independent and distinct groups of inventions. As discussed above, each independently claimed invention contains features that distinguish it from the other independently claimed inventions. Currently Class 34 contains over 32,000 patents that have been

issued after 1971. Although it may be alleged that it would "not a serious burden on the examiner," the examiner must search the 32,000 patents plus nearly the same amount issued before 1971, including relevant art in Classes 8, 134, and 510, not to mention non-patent literature, in order to result in an effective search for a thorough examination. Patentably distinguishing these nine different independently claimed inventions among the tremendous volume of prior art patent and non-patent references is a serious burden on the examiner.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 U.S.C. § 112

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 38-46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Those claims recite "said fabric composite" and "said polymer coated interior" which lack a proper positive antecedent basis from earlier recited claims.

Claim Rejections - 35 U.S.C. § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claim 29 is rejected under 35 U.S.C. 102(b) as being anticipated by Smith (6,036,727). Smith discloses a cleaning process comprising: placing articles to be cleaned into a containment bag through an opening having a closure means, securing the closure means, and subjecting the articles within the bag to a tumbling action in the presence of a cleaning agent, wherein the bag, when empty and with the closure means secured, readily defines an enclosed space having a predetermined three-dimensional shape, the bag having bag walls that contribute to the bag having inherent structural rigidity whereby the enclosed space is maintained in the predetermined shape sufficiently to promote, during the cleaning process, the free tumbling of articles placed in the bag, (please see the second full paragraph page 24 of 27 of applicants' cited reference AA which discusses this inherently equivalent step of a dry cleaning fabric being placed into a bag, then sealing the bag to be rotated in a hot air clothes dryer) wherein the bag walls are comprised of a textile composite, the composite comprising a textile substrate having a polymer facing (please see paragraphs 4-7 of the same page of the same reference which discloses the bag being formed by the co-extrusion of materials from non-porous plastic film, non-woven fabric polyethylene, polypropylene, polymide, nylon, or a multiple or layered complex comprising such materials which implicitly includes the claimed bag construction of a textile composite comprising a textile substrate having a polymer facing).

Claim Rejections - 35 U.S.C. § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

14. Claims 30-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith. Smith discloses the claimed invention, as discussed above, except for the claimed shape, the claimed textile web fibers, and/or the claimed structure, friction, or stiffness values. It would have been an obvious matter of design choice to modify the teachings of Smith, to provide the claimed shape, the claimed textile web fibers, and/or the claimed structure, friction, or stiffness values, since applicant has not disclosed that the claimed shape, the claimed textile web fibers, and/or the claimed structure, friction, or stiffness values solves any stated problem in a new or unexpected way or is for any particular purpose which is unobvious to one of ordinary skill and it appears that the claimed feature does not distinguish the invention over similar features in the prior art since, the method of Smith will perform the invention as claimed by the applicant with any shape, textile web fibers, and/or structure/ friction/ stiffness values.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve Gravini whose telephone number is (703) 308-7570 and electronic transmission/e-mail address is "steve.gravini@.uspto.gov". **If applicants chose to send information by e-mail, please be aware that confidentiality of the electronically transmitted message cannot be assured**. Please see MPEP § 502.01.

Steve Gravini

STEPHEN M. GRAVINI
PRIMARY EXAMINER

smg
February 5, 2001